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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,232	07/14/2003	John F. Fetterolf	6235 - Fetterolf et al.	4409

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Edward J. Brosius  
44th Floor  
205 North Michigan Avenue  
Chicago, IL 60601

EXAMINER

MCCARRY JR, ROBERT J

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/618,232

Applicant(s)

FETTEROLF ET AL.

Examiner

Robert J. McCarry, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaufhold (US 5,305,899).

Kaufhold discloses a yoke for a railcar coupler comprised of a front wall, a back wall 132, and a top strap 122 and a bottom strap 126. The Examiner has interpreted the front wall to be the flat surface on the back of side walls 134, 138. This front wall is best shown in figure 10 as the vertical surface facing towards the back wall 132. Both the top and bottom straps 122, 126 extend from the front wall to the back wall 132. As previously stated the front wall has two side walls 134, 138 that extend vertically from the top strap 122 to the bottom strap 126. The top strap 122 and bottom strap 126 have a reduced width as they extend towards the back wall 132. The tapering of the straps is shown best in figure 5. The interior of the back wall 132 forms a bearing surface. The Examiner has read the back wall to be a bearing surface in that when two train cars are coupled and weight is put on the coupler assembly the back wall will bear a force from the assembly, thereby making the back wall a bearing surface. The back wall 132 also has indentations of reduced thickness at the point where the top strap 122 and bottom strap 126 meet the back wall 132. The indentations are best shown in figure 4 at the top

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and bottom corners where the straps meet the back wall 132. The top and bottom straps also have indented areas of reduced thickness. This indentation is shown in figure 5 at the corners of the yoke where the top strap joins the front and side walls. The front of the yoke has convex edges extending from the front and side walls and extending laterally between the two side walls, as shown in figure 4. The assembly is further comprised of a coupler follower arranged to fit within the yoke assembly. The coupler follower has a front face, rear face, top edge, bottom edge and lightener openings 52 and a center support structure 66 shown in figure 4.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-12 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufhold (US 5,305,899) in view of Barker et al (US 6,446,820).

Kaufhold shows a draft assembly as discussed above, however Kaufhold does not show a second coupler follower or a resilient draft gear mounted between the coupler followers. Barker et al discloses a draft gear of resilient material and plates mounted between two coupler followers. Shown best in figures 5 and 6. It would have been obvious to one of ordinary skill in the art to have applied a resilient draft gear, like that of Barker et al, to a yoke assembly, like that of Kaufhold, in order to supply more shock absorption to the yoke assembly as a whole so that it may hold up with heavier

railcars. It also would have been obvious to one of ordinary skill in the art to apply a second coupler follower like that of Barker et al, to a yoke assembly, like that of Kaufhold, so as to apply more support to the draft gear when it is compressed and extended under the weight of a railcar.

Regarding claim 4-8. The claims recite that the width of the top strap bottom strap and back wall is about 8.25 inches. It is an obvious design choice to one of ordinary skill in the art to make the part a desired size so as to fit with various designs of different vehicles.

### ***Response to Arguments***

Applicant's arguments filed 10/22/04 have been fully considered but they are not persuasive. The applicant argues that the prior art does not show a center section of the front walls. As stated in the paragraphs above, the Examiner has interpreted the front wall to be the flat surface on the back of side walls 134, 138, best shown in figure 10 as the vertical surface facing towards the back wall 132. The center section the Examiner is referring to is the beveled edge that encircles the opening in the front of the yoke.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Willison (US 2,635,766), Manley (US 5,176,268), Kaufhold et al (US 6,360,906) and Barker et al (US 6,681,943) all disclose various types of draft gear and yoke assemblies.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (703) 305-0581. The examiner can normally be reached on Monday through Friday 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RJM  
January 3, 2005



S. JOSEPH MORANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600